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FIRST GENERAL COUNSEL'S REPORT

CELA

MUR 6345

DATE COMPLAINT RECEIVED: 8/6/10

DATE OF NOTIFICATION: 8/12/10

LAST RESPONSE RECEIVED: 11/22/10

DATE ACTIVATED: 9/30/10

EXPIRATION OF SOL: 4/28/15

COMPLAINANT:

Jerod Powers

RESPONDENTS:

Chris Nwasike for Congress and Marcus Brooks,
in his official capacity as treasurer

Biblical Concepts Ministries, Inc.

Chukwuemeka Christian "Chris" Nwasike

Marianne "Jorgine" Fields

Joseph "Jay" Fields

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 441b(a)

2 U.S.C. § 441f

11 C.F.R. § 110.4(b)(1)(iii)

INTERNAL REPORTS CHECKED:

FEC Database

FEDERAL AGENCIES CHECKED:

Internal Revenue Service filings

I. INTRODUCTION

This matter involves allegations that Florida 3rd Congressional district candidate Chukwuemeka Christian Nwasike¹ and his principal campaign committee, Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer, ("Nwasike Committee"), violated the Federal Election Campaign Act of 1971, as amended. Mr. Nwasike allegedly used

¹ The complainant incorrectly spells Mr. Nwasike's last name as "Enwasike."

1 his position as an organizer of a rally called Keep God in America ("KGIA") to instruct Joseph
2 "Jay" Fields, the treasurer for the rally, to use funds from Biblical Concepts Ministries, Inc.
3 ("BCM"), a nonprofit corporation involved with the rally, to make a \$2,000 payment to
4 Mr. Fields' wife (and rally co-coordinator) Marianne "Jorgine" Fields, and that the proceeds
5 were used to make a contribution to the Nwasike Committee later that same day. While Mr.
6 Nwasike and the Fields contend the \$2,000 payment was legitimate compensation for services in
7 connection with the rally, BCM contends that the payment was unauthorized and that its
8 corporate funds were improperly funneled to Nwasike's political campaign.

9 The complaint, which is very short and inartfully drafted, alleges that Mr. Nwasike and
10 the Nwasike Committee violated 2 U.S.C. § 441i(d)(1), which prohibits political party
11 committees from soliciting funds or directing donations to certain Section 501(c) non-profit
12 organizations. However, the alleged facts can also be read to assert that the \$2,000 contribution
13 was a corporate contribution made in the name of another, in violation of 2 U.S.C. §§ 441b(a)
14 and 441f.

15 As discussed below, we recommend that the Commission find reason to believe that
16 Chukwuemeka Christian Nwasike violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R.
17 § 110.4(b)(1)(iii) by assisting in the making of a corporate contribution in the name of another,
18 and Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer,
19 violated 2 U.S.C. §§ 441b(a) and 441f by knowingly accepting a corporate contribution made in
20 the name of another. We also recommend that the Commission take no action at this time with
21 respect to Biblical Concept Ministries, Inc., Jay Fields, and Jorgine Fields. Further, we
22 recommend that the Commission find no reason to believe that Mr. Nwasike or the Nwasike
23 Committee violated 2 U.S.C. § 441i(d)(1), which is inapplicable to the facts in this matter.

1 Finally, we recommend that the Commission authorize pre-probable cause conciliation with
2 Mr. Nwasike and the Nwasike Committee and approve a proposed conciliation agreement.

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. Factual Background**

5 On April 28, 2010, Chukwuemeka Christian "Chris" Nwasike submitted his Statement of
6 Candidacy to the Commission seeking to be elected to represent Florida's 3rd Congressional
7 District. When the Committee subsequently filed its Statement of Organization on May 17,
8 2010, its original treasurer was Jay Fields, who was replaced by current treasurer, Marcus
9 Brooks, on July 5, 2010.

10 BCM is a non-profit corporation registered with the State of Florida. *See* Florida
11 Secretary of State records. BCM's founder and president is Robert Johnson. *See*
12 <http://www.bcmaction.org>. While the Nwasike Committee's response to the complaint claims
13 that Mr. Nwasike was a BCM officer during the spring of 2010, *see* Nwasike Committee
14 Response at 2, BCM's response to the complaint is silent as to Mr. Nwasike's role or authority in
15 the organization. *See* BCM Response.

16 Mr. Nwasike, BCM President Johnson, and the complainant, Jerod Powers, appear to
17 have been the principal organizers of a March 26, 2010, Keep God in America ("KGIA") rally
18 held in Jacksonville, Florida. Jay and Jorgine Fields are self-employed individuals who were
19 assistant coordinators for the KGIA event. *See* Responses filed by Jorgine and Jay Fields. Mr.
20 and Mrs. Fields state that they lost nearly two months of work time by working on the rally, had
21 many extra expenses associated with their efforts, and endured financial hardships as a result of
22 their work. *Id.*

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On April 28, 2010, the same day that Mr. Nwasike submitted his Statement of Candidacy, Jay Fields, who was the acting treasurer for the KGIA rally, wrote a \$2,000 check payable to his wife in a BCM corporate bank account. Complaint at 2. The BCM check signed by Mr. Fields includes the notation that the payment was for "service rendered." See Copy of check attached to Complaint. Mr. Fields states that "after the rally, we were trying to pay off the last of our commitments, when some money came in earmarked for Chris Nwasike." See Jay Fields Response. According to Mr. Fields, Mr. Nwasike wanted the Fields to have this money since they had endured some financial hardships, so he instructed Mr. Fields to write a check to his wife to "compensate us for our losses." *Id.* The Committee claims that Mr. Nwasike was a BCM officer at the time, and it asserts that the payment was duly authorized by BCM officers, although the Committee does not identify these officers. See Nwasike Committee Response at 2. Mrs. Fields states that after the March 26th rally, she and her husband had consistently refused offers of payment for their expenses and services, but she eventually took the pay authorized by Mr. Nwasike in order to contribute the funds to Nwasike's campaign. See Jorgine Fields Response dated August 28, 2010.

BCM, however, denies that Mr. Nwasike and Mr. Fields had the authority to pay \$2,000 to Mrs. Fields. See BCM Response. BCM President Johnson states that Mr. Nwasike "has influenced a temporary[ly] appointed treasure[r] for a special event to help him funnel funds from my non-profit ministry to his political campaign WITHOUT my knowledge." *Id.* (emphasis in original). Further, Mrs. Fields' second response states that "We did not handle the donation to Chris Nwasike right, whether legal or illegal. We have been trusting that returning that money took care of everything, and still are." See Jorgine Fields Supplemental Response. Mrs. Fields

1 also states, "I am older [than Nwasike], and need to be responsible to show him the way and hold
2 our actions accountable." *Id.*

3 The Nwasike Committee reported receiving a \$2,000 contribution from Mr. Fields on
4 April 28, 2010, the same day that Mr. Fields wrote the BCM check payable to his wife. *See*
5 Complaint, last page of attachments. The Nwasike Committee's response similarly indicates that
6 it received the contribution check from Mr. Fields. Nwasike Committee Response at 2, 3. For
7 reasons that are unclear, however, the complaint asserts that the contribution to the Nwasike
8 Committee was from Mrs. Fields (the payee on the BCM check). While the Fields' responses do
9 not dispute the complaint's contention, and Mrs. Fields seems to indicate that she made the
10 contribution, the Fields do not specifically address which of them wrote the actual contribution
11 check, and we do not have a copy of that check. The Fields' responses indicate, however, that
12 Mrs. Fields accepted the BCM check in order to make a contribution to the Nwasike Committee.
13 In any event, the Nwasike Committee refunded the contribution to Mr. Fields on June 30, 2010,
14 and Mr. Fields was the Committee treasurer at the time. *See* Nwasike Committee July 2010
15 Quarterly Report. However, Mrs. Fields states Mr. Nwasike returned the money to her, and she
16 returned the money to KGIA. *See* Jorgine Fields Response.

17 The Nwasike Committee argues that there is no evidence to support the allegation that it
18 violated 2 U.S.C. § 441i(d)(1) or that it and the other respondents agreed or conspired to
19 undertake "any activity in violation of Federal election law." *Id.* at 1. The Committee further
20 contends that the \$2,000 contribution check to the Committee was drawn on the personal account
21 of Mr. Fields, a natural person and United States citizen, and was not excessive, and thus was a
22 legal contribution. *Id.* at 2-4. The Nwasike Committee also alleges that the complaint is based
23 on groundless speculation and innuendo. *Id.* at 3. Finally, Mr. Nwasike and the Nwasike

1 Committee ask that the Commission consider the small amount involved as the basis for
2 dismissing this matter as a matter of prosecutorial discretion.² *Id.* at 3.

3 **B. Legal Analysis**

4 Under the Federal Election Campaign Act of 1971, as amended ("the Act"), corporations
5 are prohibited from making contributions from their general treasury funds in connection with
6 any election of any candidate for federal office. 2 U.S.C. § 441b(a). A candidate, political
7 committee, or other person is prohibited from knowingly accepting or receiving any corporate
8 contribution. *Id.* It is also unlawful for any officer or director of any corporation to consent to
9 any contribution by the corporation. *Id.*

10 Further, the Act prohibits a person from making a contribution in the name of another
11 person, knowingly permitting his name to be used to effect such a contribution, or knowingly
12 accepting a contribution made by one person in the name of another. 2 U.S.C. § 441f. The
13 Commission's regulations also prohibit knowingly helping or assisting any person in making a
14 contribution in the name of another. 11 C.F.R. § 110.4(b)(1)(iii). Those regulations specifically
15 explain that attributing a contribution to one person, when another person is the actual source of

² On August 26, 2010, after the original service of the complaint in this matter, Andrew L. Asher submitted designations of counsel on behalf of both Mr. Nwasike, in his personal capacity, and the Nwasike Committee. On November 29, 2010, OGC became aware that Mr. Nwasike had not been listed in his individual capacity in the original notification letter, even though he was clearly named as an individual respondent by the complaint. On November 30, 2010, CELA mailed a notification letter to Mr. Nwasike's attorney of record, Mr. Asher. In addition, on December 1, 2010, we told Mr. Asher by telephone that he had an additional 15 days in which to respond and faxed him a copy of the November 30 letter. At that time, we asked Mr. Asher whether he planned to file an additional response, and he indicated that Mr. Nwasike would probably rely on the September 16, 2010, response filed on behalf of his committee.

On December 15, 2010, Mr. Asher contacted OGC to advise that he would be submitting a request for a further extension to file a response on behalf of Mr. Nwasike. OGC left Mr. Asher a voicemail message indicating that no extension would be granted given that he had received the complaint in August 2010. We received the request for extension on December 16, 2010. At that time, we left another voicemail message for Mr. Asher informing him that because his request did not present a good reason for an extension, it would be denied. On December 17, 2010, we faxed Mr. Asher a letter denying his request for an extension of time.

1 the funds used for the contribution, is an example of making a contribution in the name of
2 another.³ See 11 C.F.R. § 110.4(b)(2)(ii).

3 The Act addresses violations of law that are knowing and willful. See 2 U.S.C.
4 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is
5 violating the law. *Federal Election Commission v. John Dramei for Congress Committee*, 640
6 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established by "proof
7 that the defendant acted deliberately and with knowledge that the representation was false."
8 *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to show
9 that the defendant had a specific knowledge of the regulations; an inference of a knowing and
10 willful act may be drawn from the defendant's scheme to disguise the source of funds used in
11 illegal activities. *Id.* at 213-15.

12 This matter revolves around the disputed nature of the \$2,000 payment that Mr. Nwasike
13 instructed Mr. Fields to make to Mrs. Fields. If the payment was legitimate compensation, the
14 funds would be Mrs. Fields' personal funds that she could have used to make a contribution to
15 the Nwasike Committee. If, however, as BCM asserts, Mr. Nwasike influenced Mr. Fields to
16 make an unauthorized transfer of corporate funds to Mrs. Fields so that she could immediately
17 contribute the money to Mr. Nwasike's campaign, there may have been an illegal corporate
18 contribution in the name of another.

19 Although there are some disputed facts, the available information weighs in favor of
20 finding that the \$2,000 payment to Mrs. Fields was an unauthorized use of BCM's corporate
21 funds for political purposes, and concluding that the \$2,000 payment was not earned

³ On June 14, 2010, the Ninth Circuit ruled that § 441f prohibits the advancement or reimbursement of conduit contributions, reversing a 2009 district court opinion. *United States v. O'Donnell*, 608 F.3d 546 (9th Cir. 2010).

1 compensation. This conclusion is based on the following: 1) BCM, as the owner of the account
2 from which the funds were drawn, is best able to determine whether the payment was authorized,
3 2) Mr. Nwasike had an apparent conflict of interest in authorizing a payment from BCM's
4 account that was almost immediately contributed to his campaign, 3) Mr. Fields had an apparent
5 conflict of interest in issuing the BCM check to his wife that was almost immediately used to
6 fund a contribution to a campaign committee for which he was the treasurer at that time, 4) Mrs.
7 Fields states that she had previously refused money for her services – indicating that no money
8 was legally owed to her – and that she took the BCM money only in order to support Mr.
9 Nwasike's candidacy, and 5) Mrs. Fields acknowledges that "[w]e did not handle the donation to
10 Chris Nwasike right, whether legal or illegal." In addition, notwithstanding later statements that
11 Mrs. Fields made regarding the contribution, the contemporaneous documents indicate that Mr.
12 Fields wrote both the \$2,000 check on the BCM account and the \$2,000 contribution check, and
13 as treasurer of the Committee, refunded the \$2,000 to himself, not his wife, further undermining
14 the explanation that the \$2,000 was to compensate Mrs. Fields. Thus, BCM's funds seem to
15 have been used without its consent to make a corporate contribution in the name of another to the
16 Nwasike Committee. Notwithstanding this conclusion, the available information does not
17 suggest that Respondents, all of whom appear to be relative novices with regard to campaign
18 finance law, were aware that their actions might violate the law, so we do not recommend the
19 Commission find that any of the violations were knowing and willful.

20 1. Mr. Nwasike and the Nwasike Committee

21 Mr. Nwasike caused Mr. Fields to issue the BCM check for the purpose of providing
22 funds that could be used to make a contribution to the Nwasike Committee. Based on BCM's
23 assertion that Mr. Nwasike and Mr. Fields lacked the authority to make the \$2,000 payment to

1 Mrs. Fields, and information that this money was not earned compensation, it appears that the
2 funds were used to make a corporate contribution in the name of another. Given Mr. Nwasike's
3 role in assisting in issuing the payment and accepting the contribution, we recommend that the
4 Commission find reason to believe that Chukwuemeka Christian Nwasike violated 2 U.S.C.
5 §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii). Further, because Mr. Nwasike's knowledge
6 as to the contribution can be imputed to his principal campaign committee, we recommend that
7 the Commission also find reason to believe that Chris Nwasike for Congress and Marous Rnooks,
8 in his official capacity as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f.

9 Finally, we recommend that the Commission find no reason to believe that Mr. Nwasike
10 or the Nwasike Committee violated 2 U.S.C. § 441i(d)(1), which prohibits certain types of
11 activity by political party committees, and is inapplicable to the facts in this matter.

12 2. Biblical Concepts Ministries, Inc.

13 Since the funds used to make the contribution to the Committee originated from BCM's
14 account, BCM could be viewed as making a corporate contribution in the name of another.
15 However, as noted above, BCM President Robert Johnson denies authorizing the disbursement to
16 Mrs. Fields or even knowing about it until after the fact. At this time, we are unclear as to Mr.
17 Nwasike's precise role in BCM, and whether he actually was an officer of BCM. Thus, it
18 appears at this point that BCM was an unwitting participant in these events, and we recommend
19 taking no action as to BCM at this time.

3. Mr. and Mrs. Fields

Mr. and Mrs. Fields may have violated 2 U.S.C. § 441f by assisting in making a contribution in the name of another and by consenting to the use of Mr. Fields' name to make a contribution in the name of another. Further, it is possible that Mr. Fields, due to his position as acting treasurer, may have violated 2 U.S.C. § 441b(a) by consenting to a prohibited corporate contribution. However, it appears that Mr. and Mrs. Fields were both subordinates to Mr. Nwasike, who was an organizer of the KGIA rally. In most cases, the Commission does not pursue conduits because they were subordinate employees or spouses, although there are circumstances that may warrant pursuing conduits. See, e.g., MUR 5871 (Thomas W. Noe) (After an investigation, the Commission found reason to believe as to conduits who (1) not only actively participated in the conduit scheme, but also recruited others to participate, and (2) public officials who participated in the scheme, but ultimately took no further action as to conduits who were merely subordinates/employees). However, there does not appear to be information suggesting any such circumstances in this matter. Accordingly, we recommend that the Commission take no action at this time as to Joseph "Jay" Fields and Marianne "Jorgine" Fields.

III. PROPOSED CONCILIATION

MUR 6345 (Nwasike)
First General Counsel's Report

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IV. RECOMMENDATIONS


1. Find reason to believe that Chukwuemeka Christian Nwasike violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii).
2. Find reason to believe that Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer, violated 2 U.S.C. §§ 441b and 441f.
3. Find no reason to believe that Chukwuemeka Christian Nwasike and Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer, violated 2 U.S.C. § 441i(d)(1).
4. Take no action at this time with regard to Biblical Concepts Ministries, Inc.
4. Take no action at this time with regard to Joseph "Jay" Fields.
5. Take no action at this time with regard to Marianne "Jorgine" Fields.
6. Approve the attached Factual and Legal Analysis.
7. Authorize pre-probable cause conciliation with Chukwuemeka Christian Nwasike and Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer.
8. Approve the attached proposed conciliation agreement.


9. Approve the appropriate letters.

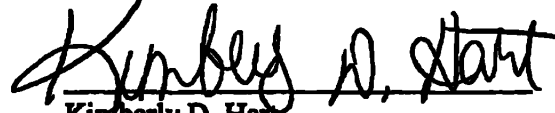
P. Christopher Hughey
Acting General Counsel

12/23/10
Date

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